



## European network of legal experts in gender equality and non-discrimination

### NEWS REPORT

<b>Country:</b>	Slovakia
<b>Title:</b>	Commissioner for Persons with Disabilities and Commissioner for Children Elected by the Slovak Parliament for the First Time
<b>Date:</b>	15 February 2016
<b>Expert:</b>	Janka Debrecéniová
<b><u>Context</u></b>	
<b>Issue at stake:</b>	The National Council of the Slovak Republic elected the first Commissioner for Persons with Disabilities and the first Commissioner for Children. The commissioners are independent bodies supposed to protect and promote the rights of persons with disabilities and the rights of children, pursuant to the relevant UN treaties
<b>Ground of discrimination:</b>	Disability (Commissioner for Persons with Disabilities); all grounds (Commissioner for Children)
<b>Source:</b>	Policy development, legislation
<b>Field:</b>	All fields
<b>Applicable law:</b>	Zákon č. 176/2015 Z. z. o komisárovi pre deti a komisárovi pre osoby so zdravotným postihnutím a o zmene a doplnení niektorých zákonov ( <i>Act No 176/2015 Coll. on the Commissioner for Children and on the Commissioner for Persons with Disabilities and on Changing and Supplementing Other Laws</i> )

### Content

#### **Law and policy development:**

On 2 December 2015, the National Council of the Slovak Republic (the Slovakian Parliament) elected the first Commissioner for Persons with Disabilities and the first Commissioner for Children.

The positions of the commissioners were established by the Act No 176/2015 Coll. on the Commissioner for Children and on the Commissioner for Persons with Disabilities, adopted on 25 June 2015 (the act came into effect on 1 September 2015). The commissioners have now 6 months at the most to start executing their statutory tasks.<sup>1</sup> Each of the commissioners will have their own office.<sup>2</sup> None of the offices has been set up yet.

The Commissioner for Persons with Disabilities is supposed to participate on the protection of persons with disabilities by supporting and promoting the rights granted to these persons by international treaties that are binding for the Slovak Republic, i.e. by

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<sup>1</sup> Act No 176/2015 Coll. on the Commissioner for Children and on the Commissioner for Persons with Disabilities, Section 30(2).

<sup>2</sup> *Ibid*, Sections 12-13 and 6-7.

the Convention on the Rights of Persons with Disabilities (CRPD) and its Optional Protocol.<sup>3</sup> The Commissioner for Children has the same tasks with regard to children, with reference to the Convention on the Rights of the Child (CRC) and its optional protocols.<sup>4</sup> Thus, the position of the Commissioner for Children will be important also for many children discriminated against on various grounds including ethnicity and sexual orientation.

Any person can approach the commissioners on issues falling under their mandates.<sup>5</sup> The act on the commissioners explicitly states that this right is also guaranteed to persons with disabilities who do not have full or any legal capacity to act, and there is no need for legal representation on their side.<sup>6</sup> The same applies analogically to children approaching the Commissioner for Children.<sup>7</sup>

The commissioners (both of them having the same tasks and powers in their respective fields) are independent bodies that carry out their tasks independently from other bodies that have powers in the field of human rights.<sup>8</sup> Their tasks include assessing whether rights of persons with disabilities and that of children are observed, monitoring the observance of these rights mainly through independent probes, research and surveys, promoting the interests of persons with disabilities and of children in society, direct cooperation and consultations with persons with disabilities and with children, cooperation with organisations active in these fields, raising awareness on the rights of persons with disabilities and on the rights of children, and cooperation with foreign and international bodies.<sup>9</sup>

The commissioners can exercise their tasks and powers in relation to public bodies, to legal persons, and to natural persons who are entrepreneurs.<sup>10</sup> However, this does not apply to several state bodies including the President, courts, prosecutors, the police (if acting in framework of criminal proceedings), or the ombudsperson, unless these bodies are acting in the capacity of public administrative bodies.<sup>11</sup>

The powers of the commissioners include the right to request information, data, copies of files or any records, to request that public bodies exercise their powers, to request opinions on the commissioners' findings from the respective bodies under consideration, and to request, upon findings of violations of rights committed by these bodies, adoption of measures on their side. The commissioners' powers also include the right to file complaints to the respective UN treaty bodies (on behalf of persons with disabilities or of children), to provide opinions on issues falling under their mandates, or to become third parties to civil judicial proceedings.<sup>12</sup> The commissioners do not have any sanctioning powers. Each of the commissioners is obliged to annually submit (by the end of March) a report to the Parliament on the activities undertaken in the previous year.<sup>13</sup>

### **Key points of analysis:**

- the commissioners established as new independent bodies for the protection of the rights of persons with disabilities and of the rights of children;

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<sup>3</sup> *Ibid*, Section 8(1).

<sup>4</sup> *Ibid*, Section 2(1).

<sup>5</sup> *Ibid*, Sections (8)3 and (2)3.

<sup>6</sup> *Ibid*, Section 8(4).

<sup>7</sup> *Ibid*, Section 2(4).

<sup>8</sup> *Ibid*, Sections (8)2 and (2)2.

<sup>9</sup> *Ibid*, Sections (10)1 and (3)1.

<sup>10</sup> *Ibid*, Sections (9)1 and (3)1.

<sup>11</sup> *Ibid*, Sections (9)2 and (3)2.

<sup>12</sup> *Ibid*, Sections (10)2 and (4)2.

<sup>13</sup> *Ibid*, Sections 11 and 5.

- the reference framework for the focus of the commissioners' work are the UN Convention for the Rights of Persons with Disabilities and the UN Convention for the Rights of Children;
- diversity of tasks that include assessing the observance of rights by public bodies, legal persons and natural persons – entrepreneurs, monitoring and research, and raising awareness; no sanctioning powers;
- commissioners' offices in the process of being set up; the exercise of their mandates and their impact remain to be seen.

**Internet link source:** <http://www.zakonypreludi.sk/zz/2015-176> accessed 12 February 2016.